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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

9   DAVID RODRIGUES,   )
)
10   Petitioner,   )   3:09-cv-00029-LRH-VPC
)
11   vs.   )
)   ORDER
12   STATE OF NEVADA, *et al.,*   )
)
13   Respondents.   )
     _____/

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15   This is a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 in which petitioner,

16   a state prisoner, is proceeding *pro se.* On September 28, 2009, petitioner filed a motion for an

17   appeal bond. (Docket #30.)   The court entered an order denying petitioner's motion on

18   November 6, 2009. (Docket #35.) On December 7, 2009, petitioner filed a motion for

19   reconsideration of that order. (Docket #38.) Respondents oppose the motion.

20   Federal Rule of Civil Procedure 60(b) governs the reconsideration of final orders of the

21   district court. The Rule permits a district court to relieve a party from a final order or judgment on

22   grounds of: "(1) mistake, inadvertence, surprise, or excusable neglect; (3) fraud . . . of an adverse

23   party, . . . or (6) any other reason justifying relief from the operation of the judgment." Fed. R. Civ.

24   P. 60(b). The motion for reconsideration must be made within a reasonable time, in any event "not

25   more than one year after the judgment, order, or proceeding was entered or taken." Id. The Ninth

26   Circuit has stated that "[c]lause 60(b)(6) is residual and 'must be read as being exclusive of the

27   preceding clauses.'" *LaFarge Conseils et Etudes, S.A. v. Kaiser Cement*, 791 F.2d 1334, 1338 (9th

28   Cir. 1986), quoting *Corex Corp. v. United States*, 638 F.2d 119 (9th Cir. 1981). Accordingly, "the

1   clause is reserved for 'extraordinary circumstances.'" *Id.*

2   Bail pending the resolution of a habeas corpus petition filed in a district court is reserved to

3   "extraordinary cases involving special circumstances" and where there is a high probability of the

4   petitioner's success. *United States v. Mett*, 41 F.3d 1281, 1282 (9th Cir. 1994), *quoting, Land v.*

5   *Deeds*, 878 F.2d 318, 318-319 (9th Cir. 1989).   A petitioner must demonstrate some circumstance

6   that makes him exceptional and especially deserving of such special treatment in the interests of

7   justice. *See*, *Aronson v, May*, 85 S.Ct. 3, 5 (1964) (Douglas, Circuit Justice, in chambers); *Benson v.*

8   *California*, 328 F.2d 159, 162 (9th Cir. 1964).   In addition to these factors, the Court must take into

9   consideration the petitioner's risk of flight and the danger to the community should he be released.

10   *See, Marino v. Vasquez*, 812 F.2d 499, 508-09 (9th Cir. 1987).

11   Petitioner argues in support of his motion for reconsideration that this court incorrectly

12   applied the holding in *Mett*, requiring him to show both that his case is extraordinary and that there is

13   a high probability of success. Petitioner's argument is without merit. This court applied the *Mett*

14   requirements in the disjunctive, holding that "petitioner demonstrated neither that this is an

15   extraordinary case involving special circumstances nor that there is a high probability of the

16   petitioner's success."   The court has reviewed petitioner's additional arguments and finds no basis

17   for reconsideration of its prior decision.

18   **IT IS THEREFORE ORDERED** that petitioner's motion for reconsideration is **DENIED**.

19   (Docket #38.)

20   DATED this 8th day of January, 2010.

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22   _____

23   LARRY R. HICKS
 UNITED STATES DISTRICT JUDGE

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